

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORNRAT KEAWSRI, et al.,

Plaintiffs,

v.

RAMEN-YA INC., et al.,

Defendants.

INDEX NO. 17-CV-02406 (LJL)(OTW)

PROPOSED ORDER

ORNRAT KEAWSRI, et al.,

Plaintiffs,

v.

MIHO MAKI et al,

Defendants.

INDEX NO. 23-CV-8408 (LJL)

PROPOSED ORDER

WHEREAS, on April 13, 2023, in Case No. 17-CV-2406, Plaintiffs/Judgment Creditors filed a motion [DE 632] for, *inter alia*, the determination of whether Defendant/Judgment Debtor Miho Maki (“Maki”) fraudulently transferred funds to the bank accounts of her daughter Haruna Maki (“Haruna”) held at TD Bank and Bank of America (the “Accounts”) to hide the funds from Plaintiffs/Judgment Creditors (the “Motion”); and

WHEREAS, on June 23, 2023, Maki and Defendant/Judgment Debtor Ramen-Ya, Inc. (“RYI”) each filed a petition for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York (the “SDNY Bankruptcy Court”), in Case No. 23-10978(mg) and Case No. 23-

10979(mg), respectively (the “Maki and RYI Bankruptcies”); and

WHEREAS, on July 5, Plaintiffs/Judgment Creditors joined by the Chapter 7 Trustee for the Maki and RYI Bankruptcies filed a motion to withdraw the reference to the SDNY Bankruptcy Court; and

WHEREAS, by Order dated July 20, 2026 entered on July 26, 2023, this Court granted the withdrawal of reference of the Motion to the SDNY Bankruptcy Court; and

WHEREAS, the SDNY Bankruptcy Court approved the retention of Florence Rostami Law LLC (“FRL”) as Special Counsel for the Chapter 7 Trustee in the Maki and RYI Bankruptcies [DE 707]; and

WHEREAS, on September 22, 2023, FRL commenced Case No. 23-CV-8408 for the matters for which the reference to the SDNY Bankruptcy Court has been withdrawn, which matter has been assigned to this Court; and

WHEREAS, on September 13, 2023, this Court determined that the Accounts were nominee accounts that were in fact owned and controlled by Maki; and

WHEREAS, the record and the testimony of Jung at the hearing held on August 18, 2023 evidence that, on or about March 9, 2023, Maki transferred \$60,000 of the funds maintained in the Accounts (the “Funds”) to a bank account maintained by Kil S. Jung (“Jung”); and

WHEREAS, at the hearing held on August 18, 2023, Jung disclaimed any possessory interest or entitlement to the Funds; and

WHEREAS, the record and the testimony of Defendant/Judgment Debtor Kenji Kora at the hearing held on August 18, 2023 establish that \$35,000 of the Funds transferred to Jung in fact belonged to Defendant/Judgment Debtor Y&S International Corp. (“Y&S”) [DE 641-6], which is jointly and severally liable to Plaintiffs/Judgment Creditors for the satisfaction of the judgment awarded by this Court

to Plaintiffs (“Judgment”) [DE 514]; and

WHEREAS, on or about September 1, 2023, Maki directed Jung to transfer the \$60,000 in his possession to the trust fund account of Rabinowitz, Lubetkin & Tully, LLC (the “Rabinowitz Firm”), which represents Defendants/Judgment Debtors Masahiko Negita and Yasuko Negita (jointly the “Negitas”) in a bankruptcy proceeding they initiated in the United States Bankruptcy Court for the District of New Jersey; and

WHEREAS, the Rabinowitz Firm has informed the Court that the Negitas do not claim any entitlement to the Funds and that the Rabinowitz Firm is holding the funds in escrow to be disbursed in accordance with an order or orders of this Court [DE 745-1]; and

WHEREAS, on September 28, 2023, the Court conducted a telephonic hearing (the “Hearing”) at which counsel representing Maki and RYI in the SDNY Bankruptcy Court (Douglas Pick), who noticed his appearance on their behalf in this action, and counsel representing Y&S (Howard Chun) failed to appear notwithstanding that they had full notice of the Hearing; and

WHEREAS, at the Hearing, the Court determined that \$35,000 of the Funds belong to Y&S and \$25,000 belonged to Maki’s bankruptcy estate; and

WHEREAS, this Court issued an Order on September 28, 2023 [DE 748] directing FRL to prepare a proposed order embodying this Court’s determination as to the Funds and providing all parties to interpose objection to the form (but not the substance) of such proposed order.

NOW THEREFORE, upon the motion of Plaintiffs/Judgment Creditors and the Chapter 7 Trustee through their attorneys FRL,

IT IS HEREBY ORDERED that \$35,000 of the Funds fraudulently transferred by Maki to Jung

and held in escrow by the Rabinowitz Firm belong to Y&S and must be transferred by the Rabinowitz Firm to Plaintiffs/Judgment Creditors in partial satisfaction of the Judgment.

IT IS FURTHER ORDERED that \$25,000 of the Funds fraudulently transferred by Maki to Jung and held in escrow by the Rabinowitz Firm belong to Maki's bankruptcy estate and must be transferred by the Rabinowitz Firm to the Chapter 7 Trustee for distribution to the creditors of Maki's bankruptcy estate.

IT IS FURTHER ORDERED that pursuant to Fed. R. Civ. P. 69 and CPLR 5225(b), within three (3) business days of the entry of this Order with the Clerk of the Court, the Rabinowitz Firm must turn over \$35,000 from its Trust Funds Account to Plaintiffs/Judgment Creditors by check written to the FRL IOLA account.

IT IS FURTHER ORDERED that pursuant to 11 U.S.C. §§ 541 and 542, within three (3) business days of the entry of this Order with the Clerk of the Court, the Rabinowitz Firm must turn over \$25,000 from its Trust Funds Account to the Chapter 7 Trustee in the manner determined by the Chapter 7 Trustee.

IT IS FURTHER ORDERED that Plaintiffs/Judgment Creditors shall serve this proposed order through the Court's electronic filing system (ECF) and by email on the Rabinowitz Firm; on Vik Pawar, counsel for RYI and the Negitas; on Douglas Pick, counsel for Maki and RYI; and on Howard Chun, counsel for Y&S by ECF.

AND IT IS FURTHER ORDERED that any party that desires to interpose an objection to the form of this order shall raise his, her, or its objection no later than 5:00 p.m. on October 2, 2023.

SO ORDERED.

Dated: New York, New York
September _____, 2023

Hon. Lewis J. Liman
United States District Court Judge